

channels from "high VHF" channels to simply "VHF" channels. Also, a reference should be included in the rule indicating that the VHF channels are also known as "guard band" channels since this phrase shows up in much of the case law precedent.

167. Section 22.533 Selection and Assignment of 931-932 MHz Channels - As drafted, this rule section circumscribes to a great extent the Commission's discretion in assigning frequencies in the 931-932 MHz frequency range. The second sentence of the proposed rule provides that the Commission may in some cases "be unable" to satisfy preference requests. However, there may be circumstances in which satisfying a preference request is technically feasible, but inadvisable since it would disrupt a regional licensing plan. The rule should be revised to indicate that the Commission may in its discretion choose not to satisfy such requests.

168. Section 22.537 Technical Channel Assignment Criteria - The Commenters support the general direction of the Commission's revisions, but urge the Commission to go further. The Commission should adopt Telocator's proposal for additional base station classes for transmitters with contours of less than 20 miles (i.e., lower power sites or lower height). This would allow licensees to add fill sites outside the existing perimeter sites.

169. Section 22.539 Additional Channel Policies - The Commenters support the Commission's revision to limit the number of applications that can be filed at any one time by an

applicant. However, since many two-way channels are devoted to paging issues, a question arises as to whether it makes sense to have a different application limit for the two types of stations. Also, there may be applications already filed which violate this rule. Therefore, the Commission should grandfather all existing applications.

170. Section 22.539(b) 931 MHz Transmitters in Same Area - The definition of the "same geographic area" for VHF and 900 MHz transmitters varies significantly. Under the VHF rules (if applied to 900 MHz), the definition for same geographic area would be 20 miles, as opposed to 40 miles. There is no logical reason for this discrepancy. Accordingly, the 900 MHz definition of "same geographic area" should mirror the VHF definition.

171. Section 22.559(a)(2) Interference Exhibit - The Commenters applaud the Commission's efforts to simplify interference determinations. The revised rule, however, is ambiguous because it is not clear whether the applicant must show that interference does not exist on the direct bearing between the two transmitters. Today, distance separation and interference calculations must be done on the direct bearing between co-channel base stations. It would be in the public interest to eliminate this cumbersome calculation in favor of examining only the contours of the two co-channel base stations. The Commission should clarify that the determination will be made solely upon the basis of the eight cardinal radials and not on the direct bearing between sites.

172. Section 22.569(g) Dismissal of Premature

Applications for Additional Channel - This rule section empowers the Commission to dismiss the later filed of two applications if the previously filed application has not been granted and the authorized facilities constructed. The rule presumes that the first application in time is the one that the applicant must prosecute. It would appear to be a better assumption that the later filed application reflects the applicants' latest service proposal, and therefore this application should be retained on file and any inconsistent prior application dismissed.

173. Section 22.575 Use of Mobile Channel for Control

Transmitter - This rule section indicates that carriers "may be authorized" under certain circumstances to control base transmitters using a control transmitter on the paired mobile channel. The language suggests that an application would be required in all instances to implement a use of this type. The Commission should consider whether there are circumstances in which the use of a mobile channel as a control transmitter could be implemented without prior Commission authorization.

174. Section 22.577 Grandfathered Dispatch Service -

The text of this rule is internally inconsistent. The introduction indicates that "no new dispatch transmitters or dispatch points are authorized". However, the rule goes on to provide circumstances under which grandfathered stations may in fact install new or modified facilities.

175. In addition to the foregoing, the Commenters recommend that the proposed forms be modified in the following respects:

176. **FCC Form 401** - For both the applicant and the contact representative, a space should be provided for the provision of a facsimile number since so much business is now being conducted in this manner.

177. Item 11 of the Form requires the identification of the "ultimate controlling party of the applicant". As phrased, this calls for the applicant to make what can in fact be a complex legal judgment respecting de facto and/or de jure control. It would be better to have the applicant list, or incorporate by reference to prior filings, the parties to the application.

178. Finally, since it is Commission policy to require a public interest showing with respect to every application (see Section 22.13(a)(4) of the rules) a specific question should be added to the form calling for this showing.

179. **Schedule B** - A section should be added to the Schedule B soliciting information respecting the contact representative of the company with respect to technical information. This will enable interested parties to easily contact knowledgeable personnel respecting the technical proposal in the event questions arise.

180. Information should be solicited describing the "Structure Type" (e.g. building, tower, tower atop building).

Also, the information on structure height should be further delineated to distinguish the height of the building from the height of the tower atop a building since lighting and marking requirements could change depending upon the nature of the structure. In addition, Item 24 should specify nearest "public" use airport.

181. Finally, the Commenters believe that the Schedule B could be shortened by changing the format. A draft form is included as Attachment 1 hereto.

182. FCC Form 489 - As suggested with respect to FCC Form 401, facsimile information should be solicited.

183. The proposed rules contemplate the filing of an FCC Form 489 to indicate facilities to be deleted from an authorization upon completion of a partial assignment. A code for this type of filing should be added to Item 6 of the FCC Form 489.

184. Item 11 of the FCC Form 489 suggests it may be signed only by individuals, members of partnerships, or officers of a corporation or association. The Commission should also accept signatures of duly authorized employees of partnerships or corporations (e.g., general managers, station managers, technical directors, etc.). The signature block should be modified accordingly.

185. FCC Form 490 - This form needs to be modified in a variety of respects. First, spaces should be provided to solicit the facsimile numbers of the parties to the applications.

Second, Item 1 should be revised to ask for the name of the assignor or "transferor's(s)". This will reflect the fact that a transfer of control may be effected through a series of interest exchanges.

186. **Item 5** should be revised to ask whether this is a "pro forma assignment" or a transfer.

187. **Item 8(a)** should be revised to require the applicant to submit a summary of the proposed transaction. Generally, assignments or transfers are effected in one of three manners: (1) The sale of assets, including the authorizations; (2) sale of interests in the licensee; or (3) other (e.g., management contract, voting trust agreement, court order, etc.). The form should reflect these alternatives.

188. **Item 8 (b)** appears superfluous since it devotes a large amount of application space to soliciting information which only applies to a very small number of assignment or transfer transactions. The earlier suggested revision to section 8(a) to require the applicant to describe the manner in which the assignment or transfer will be accomplished would solicit information regarding shares being transferred.

189. **Item 10** makes reference to possible signature by an "agent". This reference is not included on any of the other application forms. Either the ability of agents to sign all forms should be recognized, or the reference on this particular form should be deleted. Also, the Item 10 signature block calls for the mailing street address or post office box of the

signatory, which is information not called for on any other form. Again, this signature obligation should conform to others. Finally, there is no space provided for the signatory to indicate the title or office that the signatory holds.

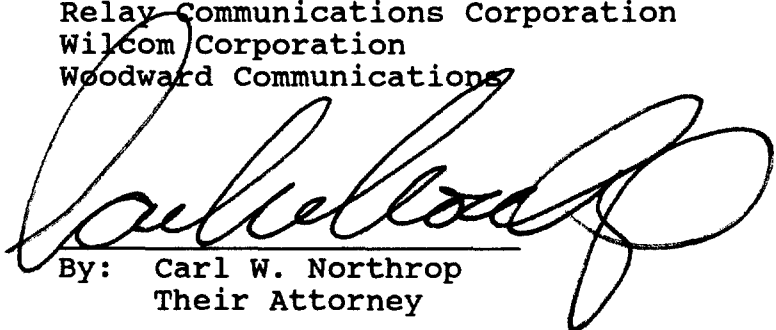
190. With respect to Part II, to be completed by the assignee or transferee, the Commenters recommend that the obligation of the applicant to submit FCC Form 430 as an exhibit be returned to the form since this contains important information respecting the ownership and control of the buyer. Finally, the Commenters again recommend that the classification of the signatory be expanded in order to recognize that an application may be signed by a duly authorized employee.

CONCLUSION

191. WHEREFORE, the foregoing premises having been duly considered, the Commenters respectfully request that the Commission revise and update Part 22 of its rules in a manner consistent with these comments.

Respectfully submitted,

PacTel Paging
Arch Communications Group
AACS Communications, Inc.
Answer, Inc.
C&W Communications
Cal-Autofone
Communications Enterprises
Desert Mobilfone
Electronic Engineering Company
Flagler Communications
Hello Pager Company
Jackson Mobilphone
Kelley's Telecommunications
LaVergne's Telephone Answering Service
Lowrance Sound & Communications
Midco Communications
Nunn's Communications Services, Inc.
Radio Electronic Products Corp.
Relay Communications Corporation
Wilcom Corporation
Woodward Communications



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ATTACHMENT 1

Schedule B

(Complete One Schedule B Per Antenna Location)

There are _____ Schedule B's with this application. This is Schedule B number _____.

ANTENNA LOCATION

Call Sign _____	File Number _____	Date Filed _____	Action _____ Add <u> </u> Delete <u> </u> Modify <u> </u>
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18. Address: _____

City: _____

County: _____

State: _____

19(a) North Latitude (DD-MM-SS) _____ - _____ - _____	(b) West Longitude (DDD-MM-SS) _____ - _____ - _____	FCC Use Only
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If changing antenna location, provide present coordinates and FCC Location Number.

20(a) North Latitude (DD-MM-SS) _____ - _____ - _____	(b) West Longitude (DDD-MM-SS) _____ - _____ - _____	(c) FCC Location Number
---	--	-------------------------

21. Status of Structure _____ Structure Type _____
 Bld = Building
 TWR = Tower
 B/T = Tower Building
NEW - New Structure
HNI - Existing Structure, Height Not Increased
EHI - Existing Structure, Height Increased
BNE - On building, not exceeding 20 feet

22. Overall Heights of Antenna Structure (meters)
(Include surmounting appurtenances)

_____ Above Ground Level Building Height _____ AGL
 _____ Tower Height _____ AGL
 + _____ Site Elevation (Overall AGL)
 = _____ Above Mean Sea Level

23. If antenna is mounted on an existing structure which currently bears lighting and marking prescribed by FCC Rules Part 17 then:

FCC Antenna Tower No. _____ or FAA Aeronautical Study No. _____

24. Distance from transmitting antenna structure to nearest runway of nearest aircraft landing area (Kilometers): _____

25. If proposed transmitting antenna is supported by the antenna structure of any other radio station then: Call Sign _____

26. FAA Notification

(a) Date Filed	(b) Name Under Which Filed	(c) Regional Office Where Filed
		City _____ State _____

27. The applicant, directly or indirectly, is currently interested in the ownership or control of licensed base stations or pending applications for base stations in the Paging and Radio Telephone Service within 64 kilometers of the station applied for here:

_____ Yes No

Call Sign _____	File Number _____	Date Filed _____	Action _____	Add _____	Delete _____	Modify _____
FCC Location _____	Coordinates N-LAT _____	(DD-MM-SS) _____	W-LON _____	(DDD-MM-SS) _____		

ANTENNA		
27. Antenna Status _____ <u>E</u> - Existing <u>P</u> - Proposed	28. Make of Antenna _____	29. Type Number of Antenna _____
30. Beam Width of Major Lobe of Antenna Pattern (degrees) _____	31. Height of Antenna Tip Above Ground Level (meters) _____	32. Antenna Radiation Center Height Above Average Terrain (meters) _____
33. Directions of Maximum Gain: _____ HAYT _____		

CHANNEL/TRANSMITTER							
Height AGL (meters) _____				Antenna No. _____			
34. (a) Action Add Delete Modify	FCC Use Only Transmitter Number	(b) Channel (MHz)	(c) Class of Station (Enter Code)	(d) Emission Designators	(e) Maximum Effective Radiated Power (Watts)		
I							
II							
(f) Effective Radiated Power in Radial Direction (Watts)							
0°	45°	90°	135°	180°	225°	270°	315°
I							
II							

35. Grant of this application would have a significant environmental effect per Rule 1.1307: _____ Yes No

CONTROL POINTS			
36. Control Points			
(a) Action Add Delete	(b) Channel (MHz)	(c) Location (Street Address, City or Town, and State)	FCC Use Only Control Point No.

POINTS OF COMMUNICATION					
37. (a) Action Add Delete	(b) Points of Communication	(c) Location (City or Town, County and State)	(d) Latitude (DD-MM-SS)	(e) Longitude (DDD-MM-SS)	(f) Call Sign

CERTIFICATE OF SERVICE

I, Tana Christine Maples, a secretary in the law firm of Bryan Cave, do hereby certify that on this 5th day of October, 1992 copies of the foregoing **COMMENTS IN RESPONSE TO NOTICE OF PROPOSED RULEMAKING** were hand delivered, courier charges prepaid to the following:

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Common Carrier Bureau
Federal Communications Commission
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Washington, D.C. 20554

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1919 M Street, N.W.
Room 644, Mail Stop Code 1600D
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